

CITY COUNCIL MINUTES
October 22, 2012
REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, October 22, 2012 at 6:00 p.m. with Mayor Hanley presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER at 5:30 p.m.

ROLL CALL:

Council Members Present: Keith Nesbitt, J. M. "Mike" Holmes, William W. Kirby, Bridget Powers, Kevin Hanley

Council Members Absent: None

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Associate Planner Lance Lowe, Fire Chief Mark D'Ambrogi, Public Works Director Bernie Schroeder, Public Works Engineer Carie Huff, Transit Analyst Megan Siren, Administrative Services Director Andy Heath and Police Chief John Ruffcorn.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6

MOTION: Nesbitt/ Holmes/ Unanimously approved by voice

1. **Conference with Labor Negotiators:**
(G.C. 54957.6)

Agency Designated Representatives: Robert Richardson, Patrick Clark

Employee Group: Auburn Police Officers Association (APOA)

2. The City Council finds, based on advice from legal counsel, that discussion in open session will prejudice the position of the City in the litigation.

Existing Litigation:
(G.C. 54956.9(a))

Name of Case: City of Auburn v. Sierra Patient and Caregiver Exchange, Inc. et al.

Names of Parties: Plaintiff: City of Auburn. Defendants: Sierra Patient and Caregiver Exchange, Inc. (dba S&R Blooms & Blossoms); Richard Miller; and Does 1-10

Case No. S-CV-0029599 (Placer Superior Court)

REPORT OUT OF CLOSED SESSION

No reportable action

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ANNOUNCEMENTS

A commendation was presented to Col. Bud Anderson, Triple Ace WWII P-51 Pilot and Hero.

AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

City Attorney Michael Colantuono removed item 9 from the consent calendar.

1. Minutes

By **MOTION**, approve the City Council Minutes of September 24, 2012.

2. Palm Avenue Sidewalk and Bicycle Lane Project – Coastland Amendment No. 4

By **RESOLUTION 12-108**, authorize the Director of Public Works to execute Amendment No. 4 with Coastland Civil Engineering, Inc. to complete the required Phase II Environmental Site Assessment for the Palm Avenue Sidewalk and Bicycle Lane Project in an amount not to exceed \$31,300.

3. Multi Modal Park & Ride Lot Paving Project – Award & Environmental Determination

By **RESOLUTION 12-109**, authorize the Director of Public Works to enter into a construction agreement with Simpson & Simpson for the Multi Modal Park and Ride Paving Project in an amount not to exceed \$48,023.

By **MOTION**, find the Multi Modal Park and Ride Lot Paving Project categorically exempt from the California Environmental Quality Act (CEQA) per Section 15301(c) Existing Facilities and Section 15311(b) Accessory Structures.

4. **Transit Shelter Purchase for the Sacramento Street Bus Shelter Project**

By **RESOLUTION 12-110**, authorize the Director of Public Works to purchase a Transit Shelter from Mark Pohley and Associates for the Sacramento Street Bus Shelter Project.

5. **Auburn Municipal Airport 2012 Capital Improvement Project – Apron Lighting, Airfield Signage and Markings – Permission to Advertise**

By **MOTION**, authorize the Director of Public Works to advertise for the Auburn Municipal Airport 2012 Capital Improvement Project – Apron Lighting, Airfield Signage and Markings.

6. **2012/2013 Annual Local Transportation and State Transit Assistance Fund Claims**

By **RESOLUTION 12-111**, authorize the Director of Public Works to submit and execute on behalf of the City of Auburn the 2012/2013 Transportation Development Act claims for the Local Transportation Fund in the amount of \$608,257 and the State Transit Assistance Fund in the amount of \$68,254 to the Placer County Transportation Planning Agency (PCTPA).

7. **2012 Street Overlay Project – Dairy Road – Award**

By **RESOLUTION 12-112**, authorize the Director of Public Works to execute a construction contract with Baldwin Contracting Company, Inc. (DBA Knife River Construction) for the 2012 Street Overlay Project – Dairy Road in an amount not to exceed \$435,600.

8. **Program Supplement Agreement – 2012 Street Overlay Project – Dairy Road**

By **RESOLUTION 12-113**, authorize the Director of Public Works to execute Program Supplement Agreement No. 012-N to Administering Agency-State Agreement No. 03-5077R in the amount of \$322,928 for the 2012 Street Overlay Project – Dairy Road.

9. **Authorization for the Fire Department to Purchase One New Type 1 Fire Apparatus**

Removed from consent calendar. See item 9a.

10. **Amendment of Meeting Schedule for Remainder of 2012**

By **MOTION**, approve the amended meeting schedule for the remainder of 2012.

11. **Arts Commission: Request to hold Juried Art Show**

By **MOTION**, authorize the Arts Commission to collect a \$10 entry fee for the "Auburn in Winter" juried competition and exhibition, and to award three cash awards to winners.

***** End of Consent Calendar *****

By **MOTION**, approve the consent calendar with the exception of item 9.

MOTION: Holmes/ Powers/ Approved 5:0

(NOTE: Nesbitt abstained from item 1)

9a. **Authorization for the Fire Department to Purchase One New Type 1 Fire Apparatus**

City Manager Michael Colantuono asked for a revision to the proposed resolution to indicate "*City Manager* to purchase" to clearly create authority.

Council Member Powers spoke in favor of this purchase.

By **RESOLUTION 12-114**, authorize the Fire Chief to purchase one new type 1 fire apparatus not to exceed the amount of \$479,233.52.

MOTION: Powers/ Nesbitt/ Approved 5:0

12. **Public Comment**

No public comment.

PUBLIC HEARING

13. **Sign Regulations Ordinance**

Community Development Director Will Wong presented this item. He reviewed a proposed addition in regards to allowed timeframes for non-commercial signs.

Council member questions followed regarding a timeframe for non-commercial signs.

Council Member Holmes asked about a fee for political signage. He said he would like to see the timeframe for noncommercial signs set as 60 days before an event, and 10 days following an event.

The Council Members discussed the proposed timeframe for non-commercial signs.

By **MOTION**, revise section O "Temporary Non-Commercial Signs" to include (7) Duration. A Temporary Non-Commercial Sign may be allowed for a period of time not to exceed 60 days prior to the date of an event or election referenced in the sign or to which the sign otherwise relates and shall be removed within 10 days after that date; And:

By **MOTION**, hold a first reading, by title only, and adopt an **ORDINANCE** repealing Sections 159.185 through 159.207 (Signs), including Appendix B, and adding new sections 159.185 – 159.199 (Signs) to the Auburn Municipal Code thereby updating the sign regulations for the City of Auburn.

MOTION: Holmes/ Kirby/ Approved 5:0

14. **A Continued Public Hearing to Consider the Planning Commission's Recommendation of an Ordinance amending the Auburn Municipal Code by adding Chapter 159.176 et. seq. to regulate Mobile Food Vending on Private Property**

Associate Planner Lance Lowe presented this item. He highlighted the requested revisions made to the proposed ordinance.

Council Member Kirby asked about liability on private property, use permits, map showing approved areas, distance from brick and mortar businesses, and the neighboring community survey.

Council Member Powers asked about Business Improvement District (BID) assessment fees.

Council Member Nesbitt asked about parking limits, possible fine amounts, and auditing rights.

Council Member Holmes asked about the neighboring community survey, assessing BID fees, and the use permit process with the Planning Commission.

Mayor Hanley asked about creating a separate category in the BID assessment.

Council Member Kirby asked for clarification regarding using "historical district" verbiage as a restricted zone.

Rich Anderson, President of Auburn Airport Business Park Association, asked how the proposed ordinance applies to the airport and how assessments would be completed.

George Miller, Owner of Flying Pig BBQ in Downtown Auburn, spoke against mobile food vending and said there is not a population base in Auburn to support this type of business.

Dion Isaacson, Owner of Depoe Bay, asked about the area of High Street in Downtown. He asked how many use permits will be issued for any one area. He spoke in favor of limiting use permits.

Will Wong, explained that if the Downtown Historical District is not a prohibited area, how use permits for that area would be issued.

Jim Bril, Business Owner in Auburn, spoke of determining business improvement assessments and clarifying the definition of mobile vending businesses.

John Matis, resident of Auburn, spoke of the negative impact on current business owners and their employees.

Eric Norby, Business Owner in Auburn, said it is in the City's best interest to keep Auburn as it is. He said mobile food vending is not a valid business for historic districts. He spoke of health permits, enforcement, and the importance of brick and mortar businesses in Auburn.

Clair Dunlap, resident of Auburn, spoke about the many regulations on food truck owners. She said unnecessary regulations restrict people from opening new mobile businesses in the area. She spoke of what other cities are doing in the area to support food trucks. She said it is unlikely food trucks will be coming from out of the area. She said food trucks provide something "affordable and fun".

Bill Veerkamp, Owner of Burney's Hotdogs, spoke in opposition of mobile food trucks in Auburn.

Bob Snyder, resident of Auburn, he spoke about expanding economic opportunities by allowing mobile food vending. He said many neighboring cities have not dealt with the issue of mobile food vending. He said it is

important to not make laws that do not protect the public. He said this would be a law to protect brick and mortar businesses from competition.

Council Member Nesbitt said he would like to know what the BID and fine fees would be. He spoke of the negative impact of food trucks on adjacent businesses. He said he can't support food trucks in either historical district.

Council Member Holmes commented on the BID proposal and the stresses of unsuccessful businesses. He said he supports restricting food trucks in both historic businesses.

Council Member Kirby commented on the effect on local businesses, regulation, and the proposed ordinance.

Council Member Powers commented on creating a "fair playing field" for current brick and mortar business owners and food truck entrepreneurs. She said a compromise must be reached to accommodate both types of businesses.

Mayor Hanley said he would like to ensure free and fair competition while at the same time preserving the unique charm of the historical districts. He said his vision is to see new buildings go up on vacant land, as opposed to temporary food vending businesses taking up those lots.

Council took a 5 minute recess

Mayor Hanley proposed a revision to include both Old Town and Downtown historical districts as restricted areas. He said this makes the issue of BID no longer relevant. He suggested revising the verbiage so that the lot used must at least be gravel, if not paved.

Council Member Holmes moved that Exhibit A, section 159.176.040 (b), be revised to read "Notwithstanding paragraph A of this section, no mobile food vending vehicle may operate in the Historic Design Review Districts as described in section 159.493 of this code and section 159.176.050 delete (c) in regards to BID assessments," and add to 159.176.060 (b) "provided that sites shall be covered with at least gravel, except where a vehicle serves a construction site."

Council Member Kirby clarified that the two restricted historic zones are being restricted due to zoning not the fact that they are business districts. He also asked about standards for approval for the required "at least gravel" lots.

Council Member Nesbitt and Powers discussed making it a level playing field for all types of restaurants.

Mayor Hanley said the City loses as a whole when a food truck can come in and not have all the overhead costs that a brick and mortar restaurant has. He said supporting brick and mortar businesses is just as important.

Council Member Nesbitt said he is also opposed to having mobile food trucks in the historical districts. He said it is not a ban on food trucks in Auburn, they are being allowed in the majority of Auburn, just not the historical districts.

Council Member Kirby emphasized that the decision is being made based on zoning in the two historic districts, as opposed to economic reasons.

By **MOTION**, introduce and hold a first reading, by title only, of an ordinance, as amended by the City Council (including tonight's revisions: Exhibit A section 159.176.040 (b) be revised to read "Notwithstanding paragraph A of this section, no mobile food vending vehicle may operate in the Historic Design Review Districts as described in section 159.493 of this code and section 159.176.050 delete (c) in regards to BID assessments," and adding to 159.176.060 (b) "provided that sites shall be covered with at least gravel, except where a vehicle serves a construction site.") amending the Auburn Municipal Code by adding Chapter 159.176 et. seq to regulate Mobile Food Vending on private property.

MOTION: Holmes/ Kirby/ Approved 4:1 (Powers voted no)

15. **A Continued Public Hearing to Consider adding Chapter 72.31 et. seq. of the Auburn Municipal Code entitled "Regulation of Mobile Food Vendors in the Public Right of Way." The proposed new chapter will establish standards for the operation of Mobile Food Vendors, in the City's Public Right of Way**

Associate Planner Lance Lowe presented this item.

Council Member Kirby asked about restricted public streets throughout town.

City Attorney Michael Colantuono said the ability to regulate mobile food trucks in the public right of way is limited to regulations based on a public safety justification.

He said there are state laws and county health department rules that apply. He said the City can choose to regulate on top of those rules, but cannot take any of those rules away.

Council Member comments followed regarding further review of safety situations throughout town.

Council Member Kirby said he would like this issue to be reviewed by the Planning Commission to determine if there are safety issues in certain areas of town.

Danielle Nash, spoke about student safety at Placer High School during their lunch break.

Bob Snyder, resident of Auburn, suggested this be taken care of at the City Council level as opposed to sending it back to the Planning Commission, to avoid being "dragged out."

Claire Dunlap, resident of Auburn, spoke of the benefits of having a mobile food truck available at Placer High School for their lunch break.

Council Member Kirby commented about the restriction of having a public restroom within 250ft. eliminating many locations throughout town; including the High School. He asked about possible restrictions in residential areas.

Council Member Powers said she agrees on leaving this issue on the City Council level, but would like more public involvement and a postponement on tonight's decision.

Council Member Holmes and Nesbitt both agreed on postponing the issue and said they would like some input from the high school.

Mayor Hanley said he would like further analysis on the state law in regards to the mobile food vending on public streets.

By MOTION, postpone this item to January 14, 2013 City Council Meeting.

MOTION: Nesbitt/ Holmes/ Approved 5:0

COUNCIL BUSINESS

16. Tile Recommendations from SHAAC

Council Member Nesbitt presented this item. He said the SHAAC is working on both street names and Central Square tile names. He said there was a \$600 fund set aside to engrave "historical tiles" and two were chosen by the committee: (1) Sheriff John C. Boggs and Deputy "Big Dip" Dependener.

Council Member Holmes asked about criteria for determining who would be considered for tiles.

Council Member Nesbitt reviewed the approval process that took place for determining tile criteria.

Council Member Holmes asked how many available tiles there currently are in Central Square and how many have been engraved.

Bernie Schroder and Council Member Nesbitt outlined how many tiles are remaining, their location and criteria applied.

Council Member Kirby said he doesn't understand why the historical figure (before 1945) priority was approved. He said he would like to revisit that policy.

Council Member Holmes said he would like to see a summary of the tile criteria and a master list of all names nominated. He said he wants to make sure Frank Dependener's full name is used on the tile.

Mayor Hanley said the reason to give historical priority is to recognize the interesting history in Auburn. He said although action is not being taken on Baltimore Ravine street names, he said he feels gold rush, railroad and Nisenan Indians are all related in Auburn's history.

Council Member Nesbitt said the application to nominate a name for a tile is available online.

By **MOTION**, approve Sheriff John C. Boggs and Deputy Frank "Big Dip" Dependener to be engraved at Central Square.

MOTION: Powers/ Holmes/ Approved 5:0

17. **Bud Anderson Monument**

Council Member Holmes presented this item. He explained where the monument would be located and how it will be built.

Council Member comments followed regarding: (1) existing tree, (2) Auburn Aviation Association support, and (3) total cost.

Bob Snyder, resident of Auburn, said in addition to the \$5,000 in airport funds, he could like to see the City contribute as well.

By **MOTION**, approve the location of the Bud Anderson Monument as shown and authorize a city funding contribution in the amount of \$5,000 towards the project.

MOTION: Holmes/ Powers/ Approved 5:0

18. **Performance Budget Discussion/ Police Department**

Police Chief John Ruffcorn presented this item. He reviewed the Patrol Services, Volunteer Program, Investigations Unit, Training, and Department Overtime.

Council Member questions and comments followed regarding (1) crime, (2) performance based budget reporting, (3) preventative measures, (4) employee turnover, (5) types of calls, (6) performance indicators, and (7) crime mapping.

19. **Procedure for Public Comment**

Mayor Hanley presented this item. He said at the beginning of his term as Mayor he outlined his intentions regarding public comment. He said over time the original purpose of the public comment period was been lost with City Council members issuing their reports during this time. He said this time should be time for the public to speak, and to let staff make brief announcements. He said the extensive Council reports should be saved for the end of the meeting under "City Council Committee Reports".

Joe Labrie, City Clerk, said for as long as he has been City Clerk, public comment has always been open to members of the Council to speak on items that are not on the agenda and not qualifying as a "committee reports." He said it is usually short when a council member speaks, and only longer when it's actually a member of the public.

Council Member Holmes said he disagrees with the decision to not allow Council Members to speak during public comment. He said Mayor Hanley said he would bring this item on the agenda to discuss and did not for two meetings. He said he exchanged emails with the Mayor to discuss the issue in which the Mayor declined. He said he does not feel a city resolution is needed to resolve this. He said he feels like the issue resolved itself. He said as an example, he would have liked to have the opportunity tonight to praise the Public Works Department regarding a fast response to a water leak last weekend. He said by the end of the meeting, there are few staff and members of the public left in attendance.

Council Member Nesbitt spoke about small announcements that would be nice to make during public comment. He said he doesn't feel the issue requires a policy or resolution from future Mayors on how to run their meeting.

Council Member Powers also said she can see the need for quick small announcements or recognition during public comment, but she could have a community member make that announcement during public comment.

She said she supports this practice for the remainder of Mayor Hanley's term.

Council Member Kirby said the public comment period has been abused. It should not be for elected officials to make announcements. He said it prolongs the meeting unnecessarily. He said it should be permanent policy to limit public comment to the public, not the city council.

Mayor Hanley said this issue comes down to priority due to the limited amount of time in some Council Meetings. He said his priorities are (1) the public telling us what is going on in the City, (2) people who attend the meeting due to a specific item that is important to them, and (3) valuable comments and announcements by City Council members.

Council Member Nesbitt asked for a compromise allowing council members to make a public comment, but limiting each person to 30 seconds.

Council Member Powers said she would like the opportunity to bring up items she would like to see on future agendas during public comment.

Mayor Hanley said he feels these things can be brought up during committee reports.

Council Member Holmes said council members are also members of the public. He spoke of the importance of a full audience during some of the announcements by council members.

By **RESOLUTION 12-115**, reaffirm that it is in the best interest of the public that the Public Comment portion of each City Council meeting is exclusively reserved for members of the public to speak to the City Council on any issue not on the meeting's agenda and to allow city staff to make brief announcements. Any City Council member comments during this time will be limited to 30 seconds each.

MOTION: Kirby/ Powers/ Approved 5:0

REPORTS

20. City Council Committee Reports

Council Member Powers reported that Auburn Industry 2012 event was successful and said she would like to get a commendation together for

Jennifer with TGH Aviation. She thanked everyone involved. She said it created a whole new appreciation for what Auburn has to offer at their airport.


Council Member Nesbitt reported on a presentation by SEDCorp at the Economic Development Commission meeting.

Council Member Holmes reported on the SEDCorp Comprehensive Economic Development Strategy report that will cover the next couple years. He reported that Mike Finnegan, area manager for the BOR will be meeting in the Rose Room before he retires.

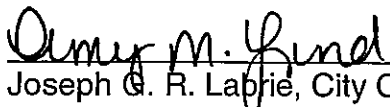
Mayor Hanley reported on SACOG shared services committee, looking at the possibility of shared services to save money.

ADJOURNMENT

Mayor Hanley adjourned the meeting, without objection, at 10:03 p.m.



Kevin Hanley, Mayor



Joseph G. R. Labrie, City Clerk